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December 9, 2004

Mr. G. John Heyer  
President's Committee for Purchase From People  
Who Are Blind or Severely Disabled  
1421 Jefferson Davis Highway  
Jefferson Plaza 2, Suite 10800  
Arlington, VA 22202-3259

Subject: Comments to the Javits-Wagner-O'Day Program Proposed Rules

Dear Mr. Heyer:

Goodwill Industries of South Florida, Inc. ("GISFL") appreciates the opportunity to provide our comments to the President's Committee for Purchase From People Who Are Blind or Severely Disabled ("Committee") and the Office of Management and Budget. We are corresponding to communicate our opposition to the proposed notice of Committee rulemaking [Docket No. 2004-01-01]. GISFL's legal counsel advises us that the proposed rulemaking on governance standards for central nonprofit agencies and nonprofit agencies participating in the Javits-Wagner-O'Day (JWOD) Program exceeds the scope of the Committee's authority and Congressional mandate.

As a non-profit 501(C)(3) corporation, GISFL is a faith-based organization participating under the Javits-Wagner-O'Day Program (41 U.S.C. 46-48 C). GISFL does not generate any business income unrelated to its 501(C)(3) status. With 95% of our revenues related to programs, we are one of the most cost-effective nonprofits in the United States. Serving one of the poorest areas in the United States, GISFL's mission is to employ or find jobs for the severely disabled. Every day GISFL employs over 1,000 people with blindness or other severe disabilities and annually places more than 1,200 people in jobs within the South Florida community - approximately 700 persons with severe disabilities that potentially will become unemployed and thereby negatively impacted should the proposed regulations become final.

As a participating JWOD community rehabilitation program, we would hope that the Committee would comply fully with the Congressional intent to provide employment and training opportunities for persons who are blind or have other severe disabilities and not delve into areas for which it lacks both the Congressional and statutory authority necessary to promulgate governance and other standards. The proposed rules will impact the entire community of participating nonprofit agencies, despite the Committee's own comment that the overwhelming majority of JWOD affiliates

are central nonprofit agencies and nonprofit agencies that operate in an ethical and accountable manner.

The statutory authority and regulations, as well as the legislative history, in addition to the applicable federal case law, do not support the Committee's actions. Furthermore, we have a concern understanding the rationale for the Committee to purport to assume regulatory authority over the governance standards for nonprofit, tax-exempt 501 (c) (3) organizations, because numerous federal entities exist to regulate these organizations. Congress, through the Senate Finance Committee, is scrutinizing the issue of governance standards of nonprofits. Primary oversight over a wide range of financial and governance affairs, including executive compensation, resides with the Internal Revenue Service ("IRS"). IRS is empowered to impose intermediate sanctions on nonprofits not in compliance. Each 501(c)(3) organization must annually file a Form 990, which discloses to the public its finances, including administrative expenses and executive compensation. These documents are readily available for public scrutiny and are available for Committee review and evaluation. Additionally, nonprofits in the state of Florida are organized under state law. State law dictates the minimum number of board members and requires that initial and all revisions of By-Laws be held by the Florida Attorney General's office. Additionally, GISFL is certified and/or accredited and/or audited by a variety of entities inclusive of Commission on Accreditation of Rehabilitation Facilities (CARF), Occupational Safety and Health Administration (OSHA), Department of Labor, International Organization for Standardization, Defense Contract Management Command, Southern Association of Colleges and Schools, United Way of Miami-Dade, NISH and a major independent financial auditing company. Furthermore, our Attorney General and consumer protection agencies enforce abuses of charitable trusts and activities. Such additional oversight by the Committee is duplicative and serves no added purpose, in our view, other than to impose arbitrary and counterproductive restrictions on the ability of many nonprofit organizations to sell their products and services to the federal government.

We believe that the proposed rules does not advance the Congressional intent of enacting JWOD legislation and would, if adopted, greatly diminish our ability to maintain our current level of employment opportunities for the blind and disabled. If approved, economic impact to our community would equate to a reduction of over \$28 million dollars and the loss of over 900 jobs. This loss would be greatly detrimental to our community and would cause the regression of almost two decades of work to improve the lives of people with blindness and other severe disabilities.

When Congress enacted the JWOD legislation, it is clear that Congress intended the work to be done by private and public non-profit organizations that independently operate in a free enterprise market environment. Legislatively, Congress created guidelines to protect small businesses from being unfairly impacted and also to prevent governmental agencies from overcharges by delegating the authority to the Committee to establish fair market prices. Congress then left it to the communities and leadership of the non-profit organizations to assume the responsibilities and risks of providing services where ever needed. Subsequently, non-profit organizations continue to build their capacity in order to serve more people with blindness and other severe disabilities.

However, under the JWOD legislation, Congress did not guarantee revenues to non-profit organizations. A review of the legislation reveals specific powers and duties conferred on the Committee. The Committee was not given oversight of corporate governance and executive compensation, and therefore, the proposed rules exceed the congressional mandate.

The majority of government employees with managerial and leadership positions are responsible for programs that they did not create. They are also not responsible to generate any volume of goods and services to finance their activities since financing is guaranteed by taxpayer funds. Government employees enjoy promotions, pensions, benefits and guarantees of employment that are very unique.

The leaders of non-profit organizations are often responsible for the development and growth of the non-profit and their compensation. The success of their organization depends entirely on their ability to produce the necessary volume of goods and services to generate the revenues to support the program.

Equating the compensation between government employees and non-profit executives is a flawed argument. Government employees are free from the fiscal responsibility of supporting their organization and meeting payroll – while the leadership of non-profit organizations is responsible for the existence of their organizations.

Any efforts by the Committee to impose regulations on non-profit organization compensations and other board governance affairs could be interpreted as the federal government's first step toward managerial control of non-profit organizations. This would be a major departure from the free-enterprise, free-market on which the American economy is based for private companies as well as for non-profit organizations.

We strongly believe that 75% of all direct labor performed at community rehabilitation programs should be performed by persons with severe disabilities and encourage the Committee to swiftly enforce this legislative requirement. Additionally, GISFL shares the Committee's concern about any organization that abuses its nonprofit status or engages in mismanagement to the detriment of the people it serves or the public. However, we disagree that the proposed rules, which will impact the entire community of participating non-profit agencies, are the proper mechanism to effect such change, especially in light of the Committee's own comment that the overwhelming majority of JWOD affiliates central nonprofit agencies and nonprofit agencies operate in an ethical and accountable manner.

Goodwill Industries of South Florida, Inc. respectfully requests that the Committee withdraw these rules.

Sincerely,



Dennis Pastrana  
President and CEO  
Goodwill Industries of South Florida, Inc.

Cc: Florida Delegation